

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

MILES DAVIS, #176948,)	
)	
Plaintiff,)	Hon. Linda V. Parker
)	Mag. Elizabeth A. Stafford
v.)	
)	
ANTONIO ALVAREZ,)	
JIM PERRY, AND)	
TRINITY SERVICE GROUP,)	C.A. No. 2:19-cv-13062-LVP-EAS
)	
Defendants.)	
)	

Miles Davis, #176948
Gus Harrison Correctional Facility
2727 E. Beecher Street
Adrian, MI 49221
In Pro Per

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Limited Appearance for
Defendants
For Purposes of Responding to
Early Mediation Program Stay

DEFENDANTS' STATEMENT TO EXCLUDE CASE FROM MEDIATION

COMES NOW undersigned counsel for the Trinity Services Group, Inc.'s ("Trinity") and Individual Defendants Antonio Alvarez and Jim Perry ("Individual Defendants"), who has entered a limited notice of appearance for the sole purpose of responding to this Court's October 24, 2019 Order Staying the Case and Referral to the Pro Se Prisoner Civil Rights Litigation Early Mediation Program ("Order"), and in accordance with said Order, files this response seeking have the above-captioned case excluded from the early mediation program. [Doc. 5¹].

Plaintiff Miles Davis ("Plaintiff") filed the above-captioned action pursuant to 42 U.S.C. §1983 alleging that he was injured by food provided by Trinity and the Individual Defendants. In addition to Trinity itself, Plaintiff's Complaint names two former employees of Trinity, a private corporation that was previously contracted by the Michigan Department of Correction ("MDOC") to provide food services to the individuals held in the MDOC's custody and control, as a defendant: Jim Perry and Antonio Alvarez.

Given that Perry and Alvarez are former employees of Trinity, Trinity has no authority to accept service on their behalf. Perry and Alvarez are entitled to personal service. After receiving said service they have the option to reach out to Trinity to seek assistance in the defense of the above-captioned lawsuit, or they may retain independent counsel. Should Perry and Alvarez reach out to Trinity to seek

¹ All references to the Electronic Record in the above-captioned case will be referenced as "Doc." followed by the corresponding document number and page references assigned by the Court.

assistance with the defense of this action, undersigned counsel would take the position that the Complaint fails to state a claim against the Defendant upon which relief can be granted, and would, instead, seek to have the judgment entered in Defendants' favor via a dispositive motion. As such, to the extent that Trinity is contacted to provide assistance with the defense of this litigation, early mediation would not be an efficient use of either this Court or the parties' time and resources. To the extent that that Defendant retains independent counsel to defend her in this action after being served, Defendant and that counsel may take a different approach.

Additionally, the undersigned represents Trinity, and believes that mediation would not be an efficient use of this Court of the parties' time and resources: Trinity is a private corporate and cannot be held liable through § 1983 actions, as it is not a state actor. Should this matter proceed past mediation, the undersigned would seek immediate dismissal of Trinity.

WHEREFORE, to the extent that the undersigned seeks to have this case excluded from the prisoner early mediation program.

Respectfully submitted,

November 12, 2019

/s/ Alexander B. Chosid
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CERTIFICATE OF SERVICE

I, Alexander B. Chosid, hereby certify that on this 12th day of November, 2019, a true and accurate copy of the foregoing was electronically transmitted to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to all counsel who have entered an appearance to date.

I also certify that a true and accurate copy of the foregoing was served via Federal Express, postage prepaid, upon the following:

Miles Davis, #176948
Gus Harrison Correctional Facility
2727 E. Beecher Street
Adrian, MI 49221
Plaintiff *pro se*

/s/ Alexander B. Chosid
Alexander B. Chosid (MO Bar #64780)